

PURCHASING UPDATE



Utah Department of Government Operations

Professional Services Contracts

By Nikki Sanchez, State Purchasing Agent

INSIDE THIS ISSUE

- 2 Just the FAQs:
School Athletics
Uniforms Equipment
Performance Clothing
- 3 Preferences and the
State of Utah: 63G-6a-
1002
- 4 An Update on the new
Marketing and
Advertising State
Cooperative Contract
Portfolio
- 5 UCI
- 6 Spotlight—Niel Engel

Have you procured a Professional Service contract or even know they existed?

Professional Services are defined in the Utah Procurement Code **63G-6a-103 Definitions** as the following: **(59) “Professional service” means labor, effort, or work that requires specialized knowledge, expertise, and discretion, including labor, effort, or work in the field of:**

- (a) accounting;
- (b) administrative law judge service;
- (c) architecture;
- (d) construction design and management;
- (e) engineering;
- (f) financial services;
- (g) information technology;
- (h) the law;
- (i) medicine;
- (j) psychiatry; or
- (k) underwriting.

This is not an all-inclusive list of services. If you must procure another professional service, discuss the procurement with a State Purchasing Agent to determine if this solicitation type can be used.

The Professional Service Procurement can be simple and has only the following Administrative Rule for guidance: **R33-5-108 Small Purchase of Professional Service Providers and Consultants**

- (1) *The small purchase threshold for professional service providers and consultants is a maximum amount of \$100,000.*
- (2) *Professional service providers and consultants may be procured up to a maximum of \$100,000, by direct negotiation after reviewing the qualifications of a minimum of three firms or individuals.*

Under the Utah State Purchasing website, you can find a Professional Service Form (Purchasing Forms tab; Solicitation Forms; Professional Service Form). This form is used for evaluating the request for qualifications sent out to suggested vendors under your service type.

Small Purchases of Professional Service Providers and Consultants are not to exceed \$100,000 for the entire term of the contract. For executive branch state agencies under the authority of Utah’s Chief Procurement Officer, State Purchasing will complete direct negotiation with the most

JUST THE FAQs

School Athletics Uniforms Equipment Performance Clothing

By Garret Johnston

1. How can a vendor get on the approved vendor list?

This is in the 90th percentile of questions asked. The short answer is that in July 2018 the State moved performance clothing from an approved vendor list to state cooperative contracts. The contracts are set to expire in 2023. If you know of a vendor wishing to participate in the next solicitation, encourage them to register with SciQuest.

2. What is the best keyword search to use if I want to see all the performance clothing contracts?

All of these contracts can be found by typing "uniforms" (among other terms) on the State Cooperative Contract website. Relevant contracts will begin to auto-populate as you type. All of the awarded contractors, categories, and respective discounts are located in the CategoryAwardandDiscountSCC document within each contract. Some contractors will have a product catalog attached to their contract, others will have a link to follow. All of the contact information for each contractor is located on the SCC website and within the contract.

3. What is the best method to obtain contractor quotes or just place an order?

- Put together an itemized list or scope of work with delivery requirements.
- Search the statecontracts.utah.gov for the company, product, or contract #
- Read the contract's brief scope of work to make sure the contractor is awarded in the proper category.
- Contact the contractor directly and order!

Continued from page 1

qualified vendor. In fact, Executive Branch procurement units, to the extent they do not have independent procurement authority, shall involve the Division of State Purchasing at the beginning of the quote or solicitation process.

NOTE: Any IT Professional Service under \$50,000 will be conducted directly by DTS and their LPD.

State Agency or Public Entity will:

- Develop the project specifications/SOW. **A state agency should involve State Purchasing at the beginning of the process.**
- Submit an RQS/RQM in FINET, including budget amount and detailed description of professional service.
- Send project specifications/SOW to a **minimum of three firms**. This can be done by direct email or through U3P. (**DO NOT** request quote or pricing. Statute requires that State Purchasing be involved).
- Based on the SOW, review the qualifications of all firms responding to the project specifications/SOW. Agency must demonstrate they have made a reasonable attempt to review the qualifications of a minimum of three firms.
- Fill out Professional Services Form identifying the names of the firms whose qualifications were reviewed. Provide the project specifications/SOW, select appropriate State of Utah T&C's*, and identify the most qualified firm. This form, T&C's, and specifications/SOW must be submitted back to the agent at State Purchasing. If the Agency requires the Standard Services Terms and Conditions, Purchasing will lead any Terms and Conditions negotiations. The Agency's Assistant Attorney General must approve any changes to the T&Cs.

State Purchasing will:

- Enter solicitation into Salesforce.
- Review Professional Service Form from Agency to ensure accuracy.
- Provide the most qualified firm with:
 - Project specifications/SOW
 - The applicable Terms and Conditions for P.O. or contract.
 - Directly negotiate the price of the project with the most qualified firm. If any exceptions have been taken by the most qualified vendor, State Purchasing will lead the negotiations and coordinate with the Agency. The Agency's Assistant Attorney General must approve any changes to the T&Cs.
- If the negotiated project price is acceptable to the Agency, State Purchasing will:
 - Create a task for a Purchase Order, including the project specifications/SOW/T&C's to the Most Qualified vendor, or Provide a Contract Cover Page and T&C's to the Agency via TCM. Note: Agency will write the contract's SOW, assemble the entire contract, and collect signatures. Agency will send the contract to State Purchasing for final review and contract execution.

Preferences and the State of Utah

The procurement code ensures fairness and transparency between the State and private entities. This ensures that there is no favoritism or bias towards different companies because we want the best value to the State of Utah. In the spirit of this fairness, the State of Utah does not give any type of preferences to vendors as a general rule. However, there are a few very specific exceptions. The only exceptions are covered in Part 10 of 63G-6a.

The type of exception is called reciprocal preference. In essence, this means that if another state has preference codified for that state's vendors – we will reciprocate that preference to our Utah vendor against that out of state vendor. Reciprocal preference is only for providers of Utah produced products and for construction contractors based in Utah. First, for products 63G-6a-1002 covers that:

- a) An issuing procurement unit shall, for all procurements, give a reciprocal preference to those bidders offering procurement items that are produced, manufactured, mined, grown, or performed in Utah over those bidders offering procurement items that are produced, manufactured, mined, grown, or performed in any state that gives or requires a preference to procurement items that are produced, manufactured, mined, grown, or performed in that state.
- (b) The amount of reciprocal preference shall be equal to the amount of the preference applied by the other state for that particular procurement item.
- (c) In order to receive a reciprocal preference under this section, the bidder shall certify on the bid that the procurement items offered are produced, manufactured, mined, grown, or performed in Utah.
- (d) The reciprocal preference is waived if the certification

described in Subsection (1)(c) does not appear on the bid.

This provides that a Utah vendor must submit a certification on the bid that the procurement items are produced, manufactured, mined, grown or performed in Utah. Then their bid will given reciprocal preference equal to the amount of preference applied by the other state (for that state's vendors) for that procurement item. Depending on the competitor State's code, the benefit shall be the same. This just helps balance the playing field for our State vendors if another state gives their local companies a preference.

The caveat defined in 63G-6a-1002(2) states that responsible bid offers with the benefit of reciprocal preference, when a Utah product bid is higher than the out of state lowest bid, the issuing unit shall give notice to the bidder offering Utah products and only make a purchase if: "...the bidder agrees, in writing, to meet the low bid within 72 hours after notification that the bidder is a preferred bidder." Therefore, even with reciprocal preference the Utah bidder with reciprocal preference still must match the lowest bid price.

Section 1003 covers the same reciprocal preference requirements but instead covers "resident contractors," instead of Utah produced products. The specific language is covered in 63G-6a-1003 (1) and only applies to construction procurements.

The last part is for federally funded contracts. 63G-6a-1004 states that Part 10 does not apply to the extent it conflicts with federal requirements relating to a procurement that involves the expenditure of federal assistance, federal contract funds, or federal financial participation funds. Therefore, reciprocal preference might not apply if federal requirements for the federal funds don't allow preference rules.



An Update on the new Marketing and Advertising State Cooperative Contract Portfolio

By Laurel deLagerheim, State Contract Analyst

The Division of Purchasing has received some questions regarding the status of the State Cooperative Marketing and Advertising portfolio. We recognize the approved vendor list ("AVL") has expired and there may be many questions. Here's a quick update for you:

- April 2021 – the Division of Purchasing issued an RFP for Marketing and Advertising services to replace the AVL portfolio.
- June 2021 – August 2021 - the RFP closed and evaluation of proposals is in process
- September 2021—*tentative* new Marketing and Advertising Services RFP will be awarded and contracts executed

We thank all Eligible Users for your patience as we work to make these new contracts easier to use to provide the best value to all Eligible Users. Some quick facts about the new Marketing and Advertising State Cooperative Portfolio:

- New contracts will be multiple award (not an AVL) and Eligible Users can make a best value determination and directly contact and order from a contractor
 - The Division of Purchasing still recommends Eligible Users gather quotes when possible to encourage competition
- Portfolio will be categorized as "For Convenience" contracts
 - This means Executive Branch Agencies are not required to use the vendors on contract and can conduct a standard solicitation process with the Division of Purchasing for these services without needing an exception from the CPO if they choose to do so

If you have any questions before the new contracts are in place, please contact Laurel deLagerheim at (801) 957-7121 or ldelagerheim@utah.gov.



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QUESTIONS? CONTACT US AT 801-576-7700
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Spotlight Article



Neil Engel, Contract Analyst

Neil Engel has recently joined the Division of Purchasing as a Contract Analyst. He came to us with a background in Financial Operations Management and a degree in Economics from Lehman College. In Neil's spare time, he enjoys exploring the outdoors with his wife, Tracy, and their 7-year-old son, Aidan. His primary hobbies are skiing, golfing and cycling. Additionally, he enjoys camping and exploring the National Parks with both family and friends and training his son in soccer, who plays competitively with Sparta United.

Q and A

Question: Who is your hero?

Answer: Bernie Williams

Question: If you could live anywhere, where would it be?

Answer: Ireland

Question: What is your biggest fear?

Answer: Not being the best father possible

TOPIC: To Be Determined

PRESENTERS: NIGP Utah Chapter

DATE: 9/16/2021 | **TIME:** 10:00 AM—12:00 PM

Future Utah Chapter NIGP meetings

11/18/2021 | TBD



How to Receive the Purchasing Update Newsletter

Did you receive this newsletter from a co-worker? Do you want to receive the Purchasing Update directly? Please send an email to Tara Eutsler, teutsler@utah.gov.

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